



BI-PARTISAN COMMISSION ON SCHOOL CONSTRUCTION

FINAL REPORT

2011

INTRODUCTION

On December 3, 2009, the County Council unanimously adopted Resolution 19-09 establishing a Bipartisan Commission on School Construction. The resolution proclaimed the Council's belief that:

- Every child in Harford County shall have equal access to the resources necessary to receive a high quality public education.

And commitment to:

- Prioritized public funding to ensure the Harford County Public School System is a safe environment with state-of-the-art facilities that provide quality learning environments to foster growth and development for all our public school students.

The membership of the commission, sought to be bi-partisan in nature, consisted of two members of the County Council, two Harford County members of the General Assembly, two members of the Board of Education and the County Executive or an appointed designee. The members were as follows:

County Council

Councilwoman Mary Ann Lisanti, Chairman
Councilman Richard C. Slutzky

General Assembly

Delegate Susan K. McComas
Senator J.B. Jennings

Board of Education

Donald Osman
John Smilko, Vice Chairman

County Executive Designee

John Scotten, County Treasurer

The full commission met three times in public session and completed most of its work through three sub-committees: Public Policy, Financing, and Needs.

BACKGROUND; CHANGING CONDITIONS

Historically, the State of Maryland and Harford County Government have partnered to provide adequate Capital Construction Funding of the school system through property, transfer and recordation tax revenue, the County's general fund and debt service.

Over the last several years, the taxes and impact fees collected have not kept pace with the growing needs of the County's school system while the State of Maryland has decreased its level of capital project support. The annual level of support is approved by the General Assembly.

In the early 1990's the Board of Education began examining capital needs and projects were prioritized based upon changing capacity requirements. From 2002- 2003, public discussions emerged concerning the need to build Patterson Mill high school and forward fund the project. During that same time, the Adequate Public Facilities law reduced school capacity requirements from 120% to 115%.

In late 2006, the leadership of the County and the Board of Education renewed discussions concerning the need to design and construct new school facilities and upgrade existing facilities. Faced with school overcrowding, facility decay and growing public demand, in 2007 the County Council took action to alleviate these situations within the school system by again refining the Adequate Public Facilities standard to 105% and by approving the Board of Education and County Executive's request to forward fund numerous school related Capital Projects.

In 2008, the local economy began showing signs of decline yet the public demand for public school improvements remained strong and a priority of the County Executive and County Council. The County Government was soon faced with the difficult task of funding existing debt obligation while paying for several new schools. It was becoming clear that the traditional funding mechanisms of taxes and impact fees were not going to be sufficient in the long term to address these needs.

Although the County Council recognized that the policy of forward funding school construction placed a great financial burden on all the citizens of the County, they sought to strike a delicate balance between cost and need to maintain quality new and existing facilities with the need to prepare for future growth and to ensure the delivery of quality county-wide education.

Furthermore, the Council recognized that the existing school capital budget process had inherent conflicts with County government's growth management policies such as the land use, water and sewer master plans. These conflicts often resulted in project priority

disputes between members of the County Council, Board of Education, Delegation to the General Assembly and the County Executive which was the case with the funding prioritization of Red Pump and Campus Hills Elementary schools.

A change in state law permitting an elected school board produced public debate and highlighting the need for better communication among decision maker therefore contributed to the County Council's determination that a commission to study school construction was necessary to examine both the facility needs and funding mechanisms.

In the fall of 2009, the County Council adopted Resolution 19-09 creating the Bi-partisan Commission on School Construction (BCSC). The BCSC was initially created to address the following issues:

- 1) Capital facility requirements
- 2) Effectiveness of the impact fee and other existing funding sources
- 3) Potential for new and innovative funding sources
- 4) An action plan to collectively address financial needs

Upon initial meetings, the members of the BCSC determined that several basic steps were missing and needed to be addressed for the commission to fulfill its charge. The BCSC determined that a true partnership in decision-making was lacking; therefore, **relationship building became priority # 1**. In addition to learning about each other's role in the decision making process, the committee established the following objectives:

1. Facilitate an understanding of the complete capital budget funding process and the roles of the Board of Education, County Executive, County Council, Delegation, the Interagency Committee on School Construction (IAC) and the State Board of Public Works (BPW).
2. Examine the process of establishing facility requirements and unmet needs
3. Identify the public policy issues that affect decision making
4. Examine existing and potential funding sources
5. Provide recommendations for action

The Capital Budget Funding Process; Conflict by Design

Board of Education

The Capital Budget for Schools begins with the Department of Planning and Construction for Harford County Public Schools. This department is responsible for managing, planning, and construction activities. Each year this department develops the Capital Improvement Program for review and approval by the Board of Education. This is considered the Superintendent's Recommended Budget which is submitted to the Board of Education.

The Harford County Board of Education annually adopts a six-year Capital Improvement Program including short-term and long-term capital needs. The Board ranks the facilities in the capital program according to priority of need. According to the Board of Education, the development of the Capital Improvement Program includes evaluating data from numerous sources. At a minimum, the Board considers facility evaluations (including technical and program evaluations), actual and projected enrollments, educational facilities master plan, and the comprehensive maintenance plan.

The County Executive

The budget adopted by the Board of Education is delivered to the County Executive as a **request for approval**. In accordance with State law under the Education Article, the County Executive may deny in whole or reduce in part any of the major categories in the Board of Education budget. Therefore, the County Executive's Capital Budget reflects the projects chosen for funding which may be the same or different from those requested by the Board of Education. The programmatic decision to staff facilities remains with the Board of Education and is determined by the following:

- Enrollment projections
- State Rated Capacities and Percentages of Utilization
- Availability of operating funds

The County Council

The County Council receives the County Executive's Budget and approves the budget in accordance with the guiding principles of the State Education article or risk a penalty or lose of state funding:

1. The County Council may not decrease operating funding for education below a designated level. This level of operating funds is called "maintenance of effort:

(MOE). Under this state law, a county failing to fund its schools with at least as much per pupil funding as the prior year may lose its incremental increase in state funds for the coming budget year. The maintenance of effort rule is currently being challenged in some jurisdictions and will likely require clarification from the General Assembly.

2. The County Council may only increase the School Board's operational budget with funds removed and re-allocated from general government.
3. The Council may restore any funds denied or reduced by the County Executive.
4. In contrast, the Board of Education's capital budget is usually funded by a combination of state and local dollars. The local dollars are often forwarded funded from general tax revenue with a portion subject to reimbursement from the state. However, the state reimbursement of local tax dollars is made directly to the Board of Education, thus does not return to general fund and is therefore un-touchable by the County Executive or County Council.

In addition to the rules above, the County Council is bound by certain County laws such as the Master Land Use Plan and Water and Sewer Master Plan that often conflict with school construction projects.

State of Maryland Public School Construction Program

The fourth partner in funding school construction is the Interagency Committee or (IAC). To fully understand the role the state plays in school construction you must first examine the origin and justification for state participation.

Background: History of State Role in School Construction

In 1970, Governor Marvin Mandel and the presiding officers of both houses of the Maryland State Legislature, Senator William S. James and Delegate Thomas Hunter Lowe, appointed a commission to study the need to revise the State Aid Foundation Program for Education and the possibility of full State funding of all operating costs. The Commission to Study the State's Role in Financing Public Education held its first meeting in May of 1970, chaired by then State Senator Harry R. Hughes.

Senator Hughes, during the early deliberations of the Commission, suggested the desirability of having the State fully fund school construction costs. On February 26, 1971, the Hughes Commission report made the following three recommendations:

- that the State reimburse the subdivisions for the full approved cost of all construction of public elementary and secondary schools for which contracts were let after July 1, 1971
- that the State reimburse the subdivisions the full cost of debt service for direct payments made or obligations incurred on contracts signed between February 1, 1971 and June 30, 1971
- that the State reimburse the subdivisions for debt service requirements for obligations outstanding as of June 30, 1967

The proposals were to (a) provide local property tax relief; (b) relieve the subdivisions of the high costs of school construction; (c) address the considerable backlog of new construction, renovation, and replacement of schools; (d) even out the financial impact through the State assumption of these costs; and (e) equalize educational facilities and opportunities throughout the State.

Legislation was then introduced to establish the State School Construction Program and a bond authorization for Fiscal Year 1972 for \$150 million. The statute establishing the Public School Construction Program authorized the State Board of Public Works (the Governor, the State Comptroller, and the State Treasurer) to determine the organization, structure, rules, regulations, and administrative procedures. The Board of Public Works, in the Rules, Regulations, and Procedures for the Administration of the School Construction Program (R, R, &P) adopted on June 29, 1971 created the Interagency Committee on School Construction. The R, R, &P have been revised several times since first being adopted; the latest revisions were approved October 6, 1993.

Organization

The Interagency Committee has three members: the State Superintendent of Schools who chairs the committee, Director of the Maryland Office of Planning, and the Secretary of the Department of General Services. Each member of the committee has an appointed designee and staff members who work with the Interagency Committee on School Construction. There is also a staff of employees of the Board of Public Works who assumes the responsibilities for the coordination and administration of the program as well as the fiscal and audit functions..

Operational Procedures

Each fall, the 24 school systems in the State submit an Annual and Five-Year Capital Improvement Program, which is approved by the local government fiscal authorities as part of the county budget.

After review and discussion with representatives of the school districts, the staff recommends action to the Interagency Committee on each project in the annual Capital Improvement Program request.

In December, the committee holds a special hearing to allow the school districts to appeal the staff recommendations. The committee, after reviewing the staff recommendations and the information presented at the hearing, forwards its recommendations to the Board of Public Works. The Board of Public Works holds a public hearing in January for school districts to appeal the recommendations of the Interagency Committee. The Capital Improvement Program, as recommended by the committee, is generally approved by the Board of Public Works in January. The Board generally reconvenes in April to respond to the appeals after the legislature has approved the Capital Budget and after the level of State funding for the following fiscal year has been established.

The Public School Construction Program obtains its funding through annual appropriations submitted in the Governor's budget and approved by the Maryland General Assembly. Since 1971, the State has provided over \$2.2 billion for public school construction projects. With the exception of \$122 million (5.55%) that was provided from the State's operating budget ("pay-go" funds), the State funds for this program have come from the sale of State general obligation bonds.

Public Policy; Conflicting Objectives

After reviewing the capital budget funding process in totality, the BCSC determined that some key public policies create conflicting objectives. For example, there is no legally binding connection between the Board of Education's funding request to the IAC and the approved County Budget for projects. Furthermore, projects can be funded by the State and not the County and vice versa.

Other potentially conflicting policies that affect school construction are:

- Smart Growth and local land use policy

- Charter requirements and state law for school funding levels

- Changing funding priorities by the Interagency Committee

One example of County and State policy conflict revolved around state rated school capacity and local adequate public facilities laws.

Although Harford County is experiencing declining enrollment, external factors such as the State Department of Education reducing the target classroom capacity from 25 to 23 students and the ever changing integration of technology school design is changing. The current classroom design requires more flexible facilities and additional space for computers which affect school space utilization and facility planning. The disparity between enrollment and capacity should be noted.

Stakeholder Input

As part of its work, two members of the BCSC met with the principals of all Harford County Public Schools for the purpose of discussing the work of the commission and to seek input as to the effectiveness of the capital budget funding process. It is to be noted that individual school needs are sometimes neither reflected in the CIP or the facilities master plan. The result of our discussion is attached in an excel spreadsheet that compares the Board of Education's Proposed Capital request with the Facilities Master Plan and the priorities that have been identified by each individual school. **(Attachment 1)**

Areas of Concern

While it is the collective belief that **every child in Harford County shall have equal access to the resources necessary to receive a high quality public education**, the BCSC has observed what appears to be a disparity among school facilities. This presumed disparity is believed to be affecting the variety of curricular programming that can be offered at particular schools within our County school system. While we understand that within a school system differences will occur, we note that some of our aging facilities continue to be overlooked and that some communities seem to lack a variety of higher level programs.

The BCSC believes that all Harford County Public School students should be afforded equal access to quality facilities and academic programming. It should be noted that the Harford County Public School curriculum is comprised of the following academic programs which are offered at various levels in our high schools:

Art	Family and Consumer Sciences	Music
Business Education	Foreign Languages	Physical Education
Career & Technology	Health	Science
Early Childhood Education	Library / Media	Social Studies
English / Language Arts	Mathematics	Technology Education

In addition, four magnet programs exist:

1. Science and Mathematics Academy at Aberdeen High School
2. Harford Technical High School

3. Global Studies Program / International Baccalaureate Diploma Program at Edgewood High School.

4. Natural Resources and Agricultural Science Magnet Program at North Harford High School.

The BCSC recognizes that the delivery of programming is affected by the individual school facility and staff resources. Therefore, the BCSC believes that the issue of magnet schools and its effect on facility utilization, school capacity and access to academic programming needs to be examined as part of this new funding paradigm.

Funding

EFFECTIVENESS OF THE IMPACT FEE AND OTHER EXISTING FUNDING SOURCES

As stated earlier in this report, given the current climate of the economy, the existing taxes and impact fees are insufficient to fund the County's current outstanding debt obligation for school facilities. To assume that these existing funding streams would be sufficient to meet the current debt obligation and the financial needs for future facilities would be in error.

In **Attachment 2**, the current outstanding debt obligation is broken down by fiscal year. Likewise, in Attachments **3, 4 and 5** the Recordation Tax Revenue, Transfer Tax and the Impact Fee Revenue for the past several years are shown.

In looking at these documents, it is clear that the existing funding sources (absent a significant change in the economic situation) will be insufficient to cover the debt service for existing school facilities.

POTENTIAL FOR NEW AND INNOVATIVE FUNDING SOURCES

The BCSC reviewed several alternative funding sources used by other jurisdictions to determine if any of these funding sources would be advantageous for Harford County. Alternative funding sources include:

- 1) Increase transfer tax (discussed by past Councils)
- 2) Donations-developer or other entities

- 3) Lease-Leaseback
- 4) Performance based contracting
- 5) Sale-Leaseback
- 6) Public-Private Partnerships
- 7) Public-Public Partnerships
- 8) Commercial Re- development of County Owned Facilities

The committee has determined that these sources are difficult to evaluate without first fixing our public policy and budgeting processes. One concern the committee identified is that alternative funding methods could not be fully reviewed until full agreement is reached between the parties represented on the BCSC on our core values and commitment to funding a level playing field for all schools in the county system.

ACTION PLAN AND RECOMMENDATIONS:

It is the recommendation of the BCSC that the following actions be taken:

1. The County Council, County Executive, and Delegation should collectively adopt a funding policy for our School System. This policy shall be the guiding principles for all capital funding decisions.
2. The County Council should enact legislation to require the establishment of a local Comprehensive Educational Facilities Master Plan. The plan should include a comprehensive review of all school facilities and provide a guide for 10-year capital improvements funding. The plan should examine opportunities for joint uses by other public facility uses such as libraries, community centers and parks and recreation. Additionally the plan should include criteria for evaluating facilities and priority ranking based upon condition, need and other related factors.
3. Once an Educational Facilities Master Plan is complete, the County Executive should appoint a Funding Committee to examine alternative funding sources of the 10 year plan.
4. The County Council should examine budget policies and ensure equity of facilities and programming in our County school system. Applicable charter provisions should be reviewed to create a linkage between the CIP and the adopted budget.

5. The County Council should consider establishing a Board of School Construction that annually receives a report of the facilities master plan and makes recommendations for funding priorities prior to the adoption of the capital budget and funding request to the IAC. The School Construction Board should have representation from the Board of Education, County Executive, County Council and the Delegation.
6. The County's land use plan should be expanded to include an Element Plan for public schools and/ or public facilities. This important planning tool will assist in determining future school sites and will ensure consistency of land use, water, and sewer utility policy.
7. The Delegation should work to reform State IAC funding policy concerning:
 - Examine the congruency of the budget cycle
 - The criteria for funding school capital construction
 - Require facilities master planning
 - Require project concurrence by the County Executive and County Council before the Board of Education can request funding from the IAC.

Conclusion

The BCSC recognizes that in order to ensure that every child in Harford County has equal access to the resources necessary to receive a high quality public education, changes in the budget approval process, county and state laws must occur. We are mindful that these decisions must balance need and affordability; therefore, it is prudent that the above recommendation be carefully examined and implemented. It is paramount that the public investment is made with the confidence that every dollar spent is necessary and carefully scrutinized. All fiscal decisions must be made in accordance with best fiscal practices and the goal of system-wide equity
